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§21-2C-13. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 425 OF 2020 **

(a) If, under § 21-2C-07 of this subtitle, the Board finds that it is in the best interest of the State to establish a process for setting upper payment limits for prescription drug products that it determines have led or will lead to an affordability challenge, the Board, in conjunction with the Stakeholder Council, shall draft a plan of action for implementing the process that includes the criteria the Board shall use to set upper payment limits.

(b) The criteria for setting upper payment limits shall include consideration of:

(1) The cost of administering the prescription drug product;

(2) The cost of delivering the prescription drug product to consumers;
and

(3) Other relevant administrative costs related to the prescription drug product.

(c) The process for setting upper payment limits shall:

(1) Prohibit the application of an upper payment limit for a prescription drug product that is on the federal Food and Drug Administration prescription drug shortage list; and

(2) Require the Board to:

(i) Monitor the availability of any prescription drug product for which it sets an upper payment limit; and

(ii) If there becomes a shortage of the prescription drug product in the State, reconsider or suspend the upper payment limit.

(d) (1) If a plan of action is drafted under subsection (a) of this section, on or before July 1, 2021, the Board shall submit the plan of action to the Legislative Policy Committee of the General Assembly, in accordance with § 2-1257 of the State Government Article, for its approval.

(2) The Legislative Policy Committee shall have 45 days to approve the plan of action.

(3) If the Legislative Policy Committee does not approve the plan of action, the Board shall submit the plan to the Governor and the Attorney General for approval.

(4) The Governor and the Attorney General shall have 45 days to approve the plan of action.

(5) The Board may not set upper payment limits unless the plan is approved, in accordance with this subsection, by:

(i) The Legislative Policy Committee; or

(ii) 1. The Governor; and

2. The Attorney General.

§21-2C-13. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 692 OF 2019 **

(a) On or after January 1, 2022, the Board may set upper payment limits for prescription drug products that are:

(1) Purchased or paid for by a unit of State or local government or an organization on behalf of a unit of State or local government, including:

(i) State or county correctional facilities;

(ii) State hospitals; and

(iii) Health clinics at State institutions of higher education;

(2) Paid for through a health benefit plan on behalf of a unit of State or local government, including a county, bicounty, or municipal employee health benefit plan; or

(3) Purchased for or paid for by the Maryland State Medical Assistance Program.

(b) The upper payment limits set under subsection (a) of this section shall:

(1) Be for prescription drug products that have led or will lead to an affordability challenge; and

(2) Be set in accordance with the criteria established in regulations adopted by the Board.

(c) (1) The Board shall:

(i) Monitor the availability of any prescription drug product for which it sets an upper payment limit; and

(ii) If there becomes a shortage of the prescription drug product in the State, reconsider whether the upper payment limit should be suspended or altered.

(2) An upper payment limit set under subsection (a) of this section may not be applied to a prescription drug product while the prescription drug product is on the federal Food and Drug Administration prescription drug shortage list.

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